

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

**INDIVIOR INC. and INDIVIOR UK
LIMITED,**

Plaintiffs,

v.

TEVA PHARMACEUTICALS USA, INC.,

Defendant.

Civil Action No. 17-7115 (KM)(CLW)

(Filed Electronically)

**INDIVIOR INC., INDIVIOR UK
LIMITED, and AQUESTIVE
THERAPEUTICS, INC.,**

Plaintiffs,

v.

TEVA PHARMACEUTICALS USA, INC.,

Defendant.

Civil Action No. 18-1777 (KM)(CLW)

(Filed Electronically)

**INDIVIOR INC., INDIVIOR UK
LIMITED, and AQUESTIVE
THERAPEUTICS, INC.,**

Plaintiffs,

v.

**TEVA PHARMACEUTICALS USA,
INC.,**

Defendant.

Civil Action No. 18-5300 (KM)(CLW)

(Filed Electronically)

ORDER OF CONSOLIDATION

WHEREAS, Plaintiffs Indivior Inc. and Indivior UK Limited initiated Civil Action No. 17-7115 (KM)(CLW) against Defendant Teva Pharmaceuticals USA, Inc. (“Defendant”)

alleging that the products described in Defendant's New Drug Application ("NDA") No. 208042 would, if approved by the U.S. Food and Drug Administration ("FDA"), infringe U.S. Patent No. 9,687,454;

WHEREAS, Plaintiffs Indivior Inc., Indivior UK Limited, and Aquestive Therapeutics, Inc. (collectively, "Plaintiffs") initiated Civil Action No. 18-1777 (KM)(CLW) against Defendant alleging that the products described in Defendant's NDA No. 208042 would, if approved by the FDA, infringe U.S. Patent No. 9,855,221;

WHEREAS, Plaintiffs initiated Civil Action No. 18-5300 (KM)(CLW) against Defendant alleging that the products described in Defendant's NDA No. 208042 would, if approved by the FDA, infringe U.S. Patent No. 9,931,305;

WHEREAS, Civil Action Nos. 17-7115, 18-1777, and 18-5300 (the "Consolidated Actions") all involve Defendant's NDA No. 208042;

WHEREAS, the parties agree that consolidation of Civil Action Nos. 17-7115, 18-1777, and 18-5300 for all purposes would conserve resources for the parties and the Court and would improve the efficient handling of all three matters;

WHEREAS, Defendant has filed a Motion to Transfer in Civil Action No. 17-7115 (KM)(CLW) (D.I. 8);

WHEREAS, the parties have agreed that Defendant's Motion to Transfer is deemed filed in Civil Action No. 18-1777 (KM)(CLW) and Civil Action No. 18-5300 (KM)(CLW);

WHEREAS, the parties have agreed that any decision regarding Defendant's Motion to Transfer (C.A. 17-7115, D.I. 8) shall be binding on the parties and shall have full force and effect in all three of the Consolidated Actions;

WHEREAS, the parties have agreed that the Discovery Confidentiality Order entered in Civil Action No. 17-7115 (KM)(CLW) (D.I. 31), and any subsequent amendments thereto, shall apply equally to Civil Action No. 18-1777 (KM)(CLW) and Civil Action No. 18-5300 (KM)(CLW);

WHEREAS, the parties have agreed, subject to the Court's approval, that all counsel who have been admitted *pro hac vice* in Civil Action No. 17-7115 shall be deemed to be admitted *pro hac vice* in Civil Action No. 18-1777 and Civil Action No. 18-5300;

WHEREAS, the parties have agreed that NDA No. 208042, which was produced in Civil Action No. 17-7115 (KM)(CLW) per L. Pat. R. 3.6(a) and L. Pat. R. 3.6(j), is deemed produced in the Consolidated Actions;

WHEREAS, the parties have agreed that the previous agreements (D.I. 29) that 1) all materials produced by any party in *Reckitt Benckiser Pharmaceuticals Inc. et al v. Teva Pharmaceuticals USA Inc.*, 14-cv-01451-RGA (D. Del.) and/or *Indivior Inc. et al v. Teva Pharmaceuticals USA, Inc.*, 16-cv-00178-RGA (D. Del.) shall be deemed produced in this Action, and 2) all discovery including expert reports and depositions, previously taken by Plaintiffs or Teva in *Reckitt Benckiser Pharmaceuticals Inc. et al v. Teva Pharmaceuticals USA Inc.*, 14-cv-01451-RGA (D. Del.) and/or *Indivior Inc. et al v. Teva Pharmaceuticals USA, Inc.*, 16-cv-00178-RGA (D. Del.) may be used in this action for any otherwise allowable purpose under the Federal Rules of Civil Procedure and Federal Rules of Evidence, is deemed to apply in the Consolidated Actions;

WHEREAS, the parties have agreed that the Initial Disclosures under Fed. R. Civ. P. 26(a)(1) served in Civil Action No. 17-7115 (KM)(CLW) are deemed served in the Consolidated Actions, subject to supplementation per Fed. R. Civ. P. 26(e);

WHEREAS, the parties have agreed that Defendant will accept service of the complaint in Civil Action No. 18-5300 (KM)(CLW), effective as of May 4, 2018;

WHEREAS, the parties have agreed, subject to the Court's approval, that Defendant will respond to the complaints in Civil Action Nos. 18-1777 (KM)(CLW), and 18-5300 (KM)(CLW) no later than June 1, 2018;

WHEREAS, in light of the foregoing, good cause exists to consolidate these actions;

IT IS on this 19 day of May 2018,

ORDERED that Civil Action Nos. 17-7115 (KM)(CLW), 18-1777 (KM)(CLW), and 18-5300 (KM)(CLW) are consolidated for all purposes, including all pretrial matters, discovery, and trial, pursuant to Federal Rule of Civil Procedure 42;

IT IS FURTHER ORDERED that Civil Action No. 17-7115 shall be the Lead Case and any future filings in the Consolidated Actions are to be made under Civil Action No. 17-7115 only. The Clerk of Court shall designate Civil Action No. 18-1777 and Civil Action No. 18-5300 as closed for administrative purposes;

IT IS FURTHER ORDERED that any decision regarding Defendant's Motion to Transfer (C.A. 17-7115, D.I. 8) shall be binding on the parties and shall have full force and effect in all three of the Consolidated Actions;

IT IS FURTHER ORDERED that the Discovery Confidentiality Order entered in Civil Action No. 17-7115 (D.I. 31), and any subsequent amendments thereto, shall apply to the Consolidated Actions;

IT IS FURTHER ORDERED that all counsel who have been admitted *pro hac vice* in Civil Action No. 17-7115 are hereby be admitted *pro hac vice* in Civil Action No. 18-1777 and Civil Action No. 18-5300;

IT IS FURTHER ORDERED that Defendant will respond to the complaints in Civil Action Nos. 18-1777 (KM)(CLW), and 18-5300 (KM)(CLW) no later than June 1, 2018; and


IT IS FURTHER ORDERED that the following schedule shall apply to the Consolidated Actions¹:

Activity	Date
Joint Discovery Plan	TBD
Rule 16 Conference	TBD
Plaintiffs' Disclosure of Asserted Claims L. Pat. R. 3.6(b)	6/20/2018
Rule 26 Disclosures	6/15/2018
Defendant's Non-Infringement and Invalidity Contentions and Responses (and Document Productions) L. Pat. R. 3.4, 3.4A, 3.6(c), (d), (e), (f)	7/11/2018
Plaintiffs' Disclosure of Infringement Contentions and Responses to Invalidity Contentions (and Document Production) L. Pat. R. 3.2, 3.2A, 3.6(g), (h), (i)	8/30/2018
Exchange of Proposed Terms for Construction L. Pat. R. 4.1(a)	9/11/2018
Exchange of Preliminary Claim Constructions and Evidentiary Support L. Pat. R. 4.2(a), (b)	9/21/2018

¹ Defendant expressly reserves the right to request that the Court enter dates certain for expert discovery and to seek a modified schedule for expert discovery as the case progresses.

Activity	Date
Exchange an Identification of All Intrinsic and Extrinsic Evidence that Each Party Intends to Rely Upon to Oppose Any Other Party's Proposed Construction L. Pat. R. 4.2(c)	10/5/2018
Meet and Confer to Narrow the Issues and Finalize Preparation of Joint Claim Construction and Prehearing Statement L. Pat. R. 4.2(d)	By 10/12/2018
File Joint Claim Construction and Prehearing Statement L. Pat. R. 4.3	10/19/2018
Completion of Claim Construction Fact Discovery L. Pat. R. 4.4	11/16/2018
Last Date to Serve Request(s) for Production of Documents	30 Days before Fact Discovery Deadline
<i>Contemporaneously Filed Opening Markman</i> Submissions L. Pat. R. 4.5	12/5/2018
Close of Claim Construction Expert Discovery with Regard to Opening <i>Markman</i> Submissions (Submitted a Certification or Declaration under L. Pat. R. 4.5(a)) L. Pat. R. 4.5(b)	1/9/2019
Final Deadline for Response to Document Request(s)	Same as Fact Discovery Deadline
<i>Contemporaneously Filed Responding Markman</i> Submissions L. Pat. R. 4.5(c)	2/1/2019
Meet and Confer to Schedule Claim Construction Hearing L. Pat. R. 4.6	By 2/15/2019

Activity	Date
Claim Construction Hearing	TBD
Claim Construction Order	TBD
Fact Discovery Deadline	60 Days after Claim Construction Order
Motions to Amend Pleadings	8/24/2018
Interrogatory Response Deadline	Same Date as Fact Discovery Deadline
Deadline to Add New Parties	8/24/2018
Opening Expert Reports	90 days after Claim Construction Order
Responsive Expert Reports	42 days after Expert Reports
Reply Expert Reports	28 days after Responsive Expert Reports
Close of Expert Discovery (Expert Depositions to be Completed on or before)	56 days after Reply Reports
Final Pretrial Conference	TBD
Trial	TBD



Hon. Cathy L. Waldor, U.S.M.J.